IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Reginald Corey Sweat, # 257472, a/k/a Reginald C. Sweat,) Civil Action No. 9:09-1255-HFF-BM
Plaintiff,)
v.) REPORT AND RECOMMENDATION
Dorris Cook (Head Nurse) individual and official capacity; Dr. Harry McKenn individual and official capacity,)))
Defendants.)))

This action has been filed by the Plaintiff, <u>pro</u> <u>se</u>, pursuant to 42 U.S.C. § 1983. Plaintiff, an inmate with the South Carolina Department of Corrections, alleges violations of his constitutional rights by the named Defendants.

By Order filed June 1, 2009, Plaintiff was granted <u>in forma pauperis</u> status and the United States Marshall was directed to serve the pleadings upon the Defendants. No responsive pleadings have yet been filed. However, Plaintiff filed a motion for summary judgment on June 29, 2009, seeking entry of judgment against the Defendants. As no proof of service has yet been filed with the Court, nor have the Defendants even had an opportunity to make an appearance in the case or to file any responsive pleadings, Plaintiff's motion should be **denied**.



The parties are referred to the Notice Page attached hereto.

Bristow Marchant

United States Magistrate Judge

July 29, 2009

Charleston, South Carolina



Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
Post Office Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).

